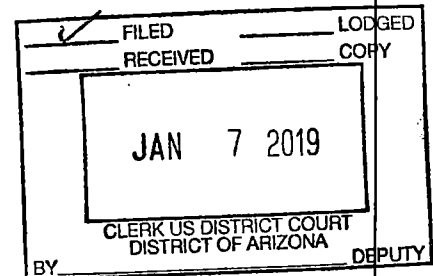


Joseph H. Martin Pro Se  
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Yuma, AZ, 85364  
Email: Birddogs462@gmail.com



UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF ARIZONA

Joseph H. Martin,  
Plaintiff,

vs.

Department Of Homeland Security (DHS) and , DHS  
Office of Inspector General (OIG) Senior Special Agent  
Sarah Arrasmith, DHS/OIG Special Agent Brian Miers,  
DHS/OIG Special Agent Robert Kent, DHS/OIG  
Special Agent Christian Abrahamson, DHS/OIG Special  
Agent Eric Kreger, DHS/OIG Assistant Special Agent  
In Charge (ASAC) Scott West, Individually in and his  
or her capacity as an Agent of the Department of  
Homeland Security / Office of Inspector General,  
Tucson, Arizona. DHS / U.S. Customs and Border  
Protection (CBP), Office of Professional Responsibility  
(OPR) Supervisory Special Agent David Petersmarck  
Individually and in his capacity as an Agent of the  
DHS/CBP/OPR. DHS Immigration and Customs  
Enforcement (ICE) OPR Special Agent Brian Putney,  
(ICE) OPR Special Agent Jeff Barczak, Individually in  
his capacity as an Agent of the DHS/ICE/OPR.

Case No.: No. \_\_\_\_\_

**CV 19-0010 TUCFRZ**

**JURY TRIAL DEMANDED**

1 DHS/CBP Border Patrol Agent Erika Lopez, DHS/CBP )  
 2 Border Patrol Agent Daniel Sanchez , DHS/CBP Office )  
 3 of Field Operations (OFO) CBP Officer Cynthia )  
 4 Demara, DHS/CBP Office Of Assistant Chief Counsel )  
 5 (OCC) Mrs. Kristine King, DHS/CBP/OCC Mr. Curtis )  
 6 Smith, DHS/CBP/OFO Assistant Director of Field )  
 7 Operations James Y. Tong, Individually in his or her )  
 8 capacity as Agents and Officers of DHS/CBP and )  
 9 Twenty (20) Unknown Jane Does and/or John Does. )  
 10 Defendant(s) )  
 11 \_\_\_\_\_ )  
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Plaintiff Joseph Martin, Submits the following as and for his complaint in the above-caption action.

**PRELIMINARY STATEMENT**

1. Plaintiff brings this action pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau Of Narcotics*, 403 U.S. 388 (1971) and the federal Tort Claim act ("FTCA"), 28 U.S.C. 1346, 2671-80
2. This Action involves the deprivation of the plaintiff's constitutional rights by the Defendants, as well as claims in tort arising under the FTCA. These claims all arise out of the defendants conducting an Illegal surveillance, both video and audio, of the plaintiff while the plaintiff was in his personal hotel room in Tucson, Arizona, on the afternoon and evening of July 8, 2015.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. 1331 and 134.
4. Venue is proper in this District pursuant to 28 U.S.C. 1391(b) because the acts complained of occurred in this District.

**PARTIES**

5. Plaintiff is a resident of the County of Yuma, State of Arizona.

6. Upon information and belief, at all time relevant hereto, Defendants Sarah Arrasmith, Brian Miers, Robert Kent, Christian Abrahamson, Eric Kreger, Scott West, David Petersmarck, Brian Putney, Erika Lopez, Daniel Sanchez, Cynthia Demara, Kristine King, Curtis Smith, James Tong and Twenty (20) unknown Jane Doe's and/or John Doe's had a residence and place of employment within the District of Arizona.

7. At all times hereinafter mentioned, Sarah Arrasmith, Brian Miers, Robert Kent, Christian Abrahamson, Eric Kreger, Scott West, David Petersmarck, Brian Putney, Erika Lopez, Daniel Sanchez, Cynthia Demara, Kristine King, Curtis Smith, James Tong and Twenty (20) unknown Jane Doe's and/or John Doe's were acting under the color of federal law in his or her capacity as an agent of the United States government.

**GENERAL ALLEGATIONS**

8. On or about July 8, 2015 Plaintiff was an employee of U.S. Customs and Border Protection as an Enforcement Officer and the Duly Elected President of the National Treasury Employee Union (NTEU), Chapter 116. On July 8, 2015 the plaintiff was conducting a Union Meeting with Defendant Cynthia Demara and invited the Defendant into his hotel room to discuss a grievance that the plaintiff had filed on behalf of the Defendant Cynthia Demara's. Unbeknownst to the Plaintiff, the Defendant Cynthia Demara had entered into a written agreement with the DHS/OIG, to wear and/or carry a hidden microphone and video recording device provided to her by defendants DHS/OIG and did record the plaintiff's words and actions in his personal Hotel Room at the Holiday Inn Express on 1546 West Grant Road, in Tucson, Arizona. Said audio and video recordings of the Plaintiff's words and actions during this July 8, 2015, NTEU Union meeting were turned over to DHS/CBP. DHS/CBP Officer Brad Capponni utilized said audio and video, along with other Illegally obtained DHS/OIG Investigative materials, issued the plaintiff an administrative proposal to terminate the Plaintiff's employment with DHS/CBP, based upon the illegally obtained audio/video, as well as the other illegally obtained Investigative materials. The plaintiff was provided these Illegally obtained materials, as well as a CD-Rom containing the Illegally Obtained Audio and Video of the Plaintiff in his personal Hotel Room on July 8, 2015, as materials relied upon which CBP Officer Brad Capponni used to

1 make his termination proposal on the Plaintiff, on February 3, 2017. It was learned on that date, by watching the  
 2 provided CD-Rom Video, that the Tucson Police Department (TPD) was also involved in the Illegal surveillance of  
 3 the plaintiff at the Holiday Inn Express on 1546 West Grant Road in Tucson, Arizona, on July 8, 2015. On March  
 4 28, 2017 the plaintiff and his personal representative presented an oral and written reply to the proposed termination,  
 5 to the oral reply Officer, DHS/CBP/OFO Director of Field Operation for the El Paso Field Office, Mr. Hector  
 6 Mancha. During this oral reply, the plaintiff put Director Mancha on notice of the violation of the Plaintiff's 4<sup>th</sup>  
 7 Amendment Constitutional protections that had occurred on July 8, 2015. On June 6, 2017 Director Hector  
 8 Manacha disregarded the violating of the Plaintiff's 4<sup>th</sup> Amendment protections and instead, sustained the charges  
 9 against the Plaintiff and terminated the plaintiff's employment from DHS/CBP and the federal service, thereby  
 10 violating the Plaintiff's 14<sup>th</sup> Amendment protections.

11  
 12 The plaintiff filed an appeal of his termination with the Merit System Protection Board (MSPB). During the  
 13 discovery exchanges between the Plaintiff's Legal Counsel, Mr. Jeffrey Jacobson, DHS/CBP OCC Mrs. Kristine  
 14 King and Mr. Curtis Smith and DHS/OIG Assistant Counsel to the Inspector General Christopher P. Zubowicz the  
 15 Plaintiff learned of the other listed defendants. On May 1<sup>st</sup> and 2<sup>nd</sup> of 2018 an MSPB formal hearing was conducted  
 16 with MSPB Judge Glen D. Williams presiding. During this hearing, defendant DHS/OIG Special Agent Sara  
 17 Arrasmith admitted under oath and during examination by Mr. Jacobson, that DHS/OIG did not have a search  
 18 warrant to conduct the surveillance of the Plaintiff in his Hotel Room on July 8, 2015, as well as admitted that  
 19 DHS/OIG had no authority to investigate a Union Official conducting a Union Meeting, which also violated the  
 20 Federal Service Labor-Management Relations Statute 5 U.S.C. 7101, et seq.

#### 21 **FIRST CAUSE OF ACTION – BIVENS ACTION**

22 9. Plaintiff repeats and re-alleges the foregoing allegation as if fully set forth herein 403  
 23 *In bivens v. six unkn named agents of the federal bureau of narcotics*, 403 U.S. 388, 91 S. Ct 1999 (1971), the  
 24 Supreme Court of the United States recognized an implied private cause of action for the damages against federal  
 25 officers who violate a citizen's constitutional rights.

26 10. By virtue of the foregoing conduct, the defendants deprived Plaintiff of his constitutional rights,

1 including the rights of privacy afforded to him under the Fourth amendment, as well as the right to his property  
2 under the 14<sup>th</sup> Amendment.

3 11. The defendants committed these violations in their capacity as agents of the United States  
4 Government and in the course of their employment.

5 12. Plaintiff suffered damages as a result of the defendant's violations of his fourth and fourteenth  
6 Amendment rights, including monetary and other damages in an amount to be determined at trial, but  
7 believed to be in the excess of \$250,000.00 per defendant, plus costs and attorney's fees.

8 **SECOND CAUSE OF ACTION-FEDERAL TORT CLAIMS ACT**

9 **Intentional infliction of Emotional Distress**

10 13. Plaintiff repeats and re alleges each of the foregoing allegations as if fully set forth herein.

11 14. The foregoing conduct by the defendants was Illegal, extreme and outrageous.

12 15. The Defendants engaged in the foregoing conduct with the intent to cause, and/or in total disregard of a  
13 substantial probability that the conduct would cause sever emotional distress to the plaintiff and his immediate  
14 family.

15 16. The foregoing conduct by the defendants caused the Plaintiff to suffer severe emotional distress.

16 17. The forgoing conduct by the defendants caused the Plaintiff's immediate family members to suffer  
17 severe emotional distress.

18 18. Plaintiff suffered damages, including emotional distress, shame, fear and great mental anguish due to  
19 the Defendants' tortious conduct, in the amount of \$250,000.00 per Defendant.

20 **THIRD CAUSE OF ACTION-FEDERAL TORT CLAIMS ACT**

21 **Prima Facie Tort**

22 19. Plaintiff repeats and re-alleges each of the foregoing allegations as if fully set forth herein.

23 20. The Defendants engaged in the foregoing conduct with the intent to cause, or in disregard of  
24 substantial probability that the conduct would cause, harm to the Plaintiff.

25 21. Plaintiff suffered special damages as a result of Defendants' conduct, including emotional destress,  
26 shame, fear and great mental anguish as a result of the Defendants' tortious conduct.

1 22. There were no justifications or excuse for Defendants' tortious conduct.

2 23. The foregoing conduct by the Defendants caused the Plaintiff to suffer damages in the amount of  
3 \$250,000.00 per Defendant.

4 WHEREFORE, the Plaintiff demands judgment against the defendants as follows:

5 (1) On Plaintiff's first Cause of Action, damages for the Defendants' violation of the plaintiff's  
6 Constitutional rights in an amount to be determined at trial but believed to be in excess of \$250,000.00 per  
7 Defendant.

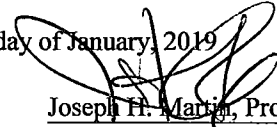
8 (2) On Plaintiff's Second Cause of Action, damages in the amount of \$250,000.00 per Defendant.

9 (3) On Plaintiff's Third Cause of Action, damages in the amount of \$250,000.00 per Defendant.

10 (4) Reasonable costs, disbursements and attorney's fees: and

11 (5) Such other and further relief as may seem equitable to the court.

12  
13 Dated this 7th day of January, 2019

14   
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RECEIVED	COPY
JAN 7 2019	
CLERK US DISTRICT COURT DISTRICT OF ARIZONA	
BY	DEPUTY

CV-19-10-TUC-FRZ

Court Name: United States District Court  
Division: 4  
Receipt Number: TUC029688  
Cashier ID: acaldero  
Transaction Date: 01/07/2019  
Payer Name: ANNA ELENA PARADA

CIVIL FILING FEES  
For: JOSEPH H MARTIN  
Case/Party: D-AZX-4-19-CV-000010-001  
Amount: \$400.00

CREDIT CARD  
Amt Tendered: \$400.00

Total Due: \$400.00  
Total Tendered: \$400.00  
Change Amt: \$0.00

A fee of \$53 will be assessed on  
all returned remittances